

REMARKS

Reconsideration and allowance of the claims are requested in view of the above amendments and the following remarks. Claims 1, 6, 11, 12 and 13 have been amended. Support for the amendments may be found in the specification and claims as originally filed. For example, support for the claim amendments may be found in the specification at least at page 20, line 19 – page 21, line 22. No new matter has been added. Claims 15, 17 and 25 were previously canceled.

Upon entry of this amendment, claims 1-14, 16, 18-24 and 26-52 will be pending in the present application, with claims 1, 11, 12 and 13 being independent.

I. Rejections Under 35 U.S.C. §103**A. Rejections Based on Reps et al. and Cohen et al.**

The Office Action rejects claims 1-12 under 35 U.S.C. §103(a) as being unpatentable over Reps et al. (US 6,070,190), in view of Cohen et al. (US 6,356,898). Applicants respectfully traverse this rejection for at least the following reasons.

The Office Action on page 5 asserts that Reps et al. discloses that performance data is correlated to factors of interest (citing col. 14, lines 3-10). Reps et al. discloses a transaction record that includes information regarding transactions, such as whether an application program running on a server has successfully responded to a service request, the total duration of the transaction cycle, the time of day of the service request and any other metric which may be of interest to an entity seeking to monitor the particular application program (see col. 14, lines 3-9).

However, Reps et al. fails to disclose or suggest the elements of summarizing the quantity of the data collected to produce summarized performance data, wherein the summarizing comprises correlating the collected data with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 1 and

11. Furthermore, for similar reasons, Reps et al. also fails to disclose or suggest the elements of at least a portion of preliminary summary data is correlated with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 12 and 13. Cohen et al. fails to cure this defect in Reps et al.

Cohen et al. discloses capturing and generating information about a user's access and use of data on a computer system, and making such information available to others (see abstract). The Office Action asserts that Cohen et al. teaches the elements of monitoring a network browser of a user, capturing performance data associated with web page object retrievals, and network performance statistics for web browser. However, even if Cohen et al. discloses these elements, Cohen et al. still fails to disclose or suggest the elements of summarizing the quantity of the data collected to produce summarized performance data, wherein the summarizing comprises correlating the collected data with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 1 and 11. Additionally, Cohen et al. fails to disclose or suggest the elements of at least a portion of preliminary summary data is correlated with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 12 and 13.

Therefore, since Reps et al. and Cohen et al., alone or in combination, fail to disclose or suggest every element of independent claims 1, 11, 12 and 13, these claims are allowable over Reps et al. and Cohen et al.

Claims 2-10 and depend from claim 1. As discussed above, claim 1 is allowable. For at least this reason, and the additional features recited therein, claims 2-10 are also allowable.

For at least the reasons above, reconsideration and withdrawal of the rejection of claims 1-12 under 35 U.S.C. §103(a) are respectfully requested.

B. Rejections Based on Reps et al., Cohen et al. and Killian

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The Office Action rejects claims 13, 14, 16, 18-24, and 26-52 under 35 U.S.C. 103(a) as being unpatentable over Reps et al., in view of Cohen et al., and further in view of Killian (US 6,438,592). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed above, claim 13 is allowable over Reps et al. and Cohen et al. Killian fails to cure the defects in Reps et al. and Cohen et al.

The Office Action on page 9 asserts that Killian discloses the elements of capturing performance data associated with web page object retrievals. However, even if Killian discloses these elements, Killian still fails to disclose or suggest the elements of summarizing the quantity of the data collected to produce summarized performance data, wherein the summarizing comprises correlating the collected data with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 1 and 11. Additionally, Killian fails to disclose or suggest the elements of at least a portion of preliminary summary data is correlated with one or more factors of interest to produce one or more different types of summarized performance data, as included in independent claims 12 and 13.

Therefore, since Reps et al., Cohen et al. and Killian, alone or in combination, fail to disclose or suggest every element of independent claim 13, this claim is allowable.

Claims 14, 16, 18-24, 26-50 and 52 depend from claim 13. As discussed above, claim 13 is allowable. For at least this reason, and the additional features recited therein, claims 14, 16, 18-24, 26-50 and 52 are also allowable.

Applicants note that claim 51 depends from and incorporates the elements of independent claim 1 (not independent claim 13). However, in rejecting claim 51, it appears that the Office Action erroneously groups this claim with claims depending from independent claim 13. Additionally, as discussed above, Reps et al. and Cohen et al., alone or in combination, fail to disclose or suggest every element of independent claim 1. Killian fails to cure this defect in Reps et al. and Cohen et al. Therefore, applicants respectfully submit that claim 51 is patentably

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distinct over the cited prior art in light of its dependency from claim 1.

For at least the reasons above, reconsideration and withdrawal of the rejection of claims 13-14, 16, 18-24 and 26-52 under 35 U.S.C. §103(a) are respectfully requested.

2. Conclusion

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and reexamination of the present application is requested. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the applicants' attorney at the telephone number listed below.

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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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Date: May 25, 2007

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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence and the documents identified on this form are being electronically deposited with the USPTO via EFS-Web on the date shown below:

May 25, 2007
Date

/Kate Marochkina/
Signature

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